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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/733,597

12/11/2003

James L. Holloway

00-34D1

8239

7590

07/14/2006

Robyn Adams  
Patent Department  
ZymoGenetics, Inc.  
1201 Eastlake Avenue East  
Seattle, WA 98102

EXAMINER

LANDSMAN, ROBERT S

ART UNIT

PAPER NUMBER

1647

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/733,597	HOLLOWAY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Robert Landsman	1647	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 1, 2 and 4-6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Sequence Comparison</u>                |

## **DETAILED ACTION**

### ***1. Formal Matters***

- A. The Amendment filed 6/1/06 has been entered into the record.
- B. Claims 1-6 are pending. Claims 1-2 and 4-6 have been withdrawn as being drawn to a non-elected invention. Therefore, claim 3 is pending and is the subject of this Office Action. A response to Applicants' traversal appears below.

### ***2. Traversal***

- A. Applicants have elected the antibody of Group III with traverse. Applicants argue that sequences 2 and 9-14 are all directed to the same amino acid sequence and that SEQ ID NO:9 is the mature sequence of SEQ ID NO:2. Applicants further argue that SEQ ID NO:10-14 are antigenic peptides of SEQ ID NO:2. These arguments have been considered, but are not deemed persuasive. While SEQ ID NO:10-14 may be antigenic portions of SEQ ID NO:2 or 9, the fact is that these sequences represent individual regions of the protein of SEQ ID NO:2 or 9. Searching SEQ ID NO:10-14 would be a serious burden since searching these proteins would require separate, non-overlapping searches. However, since SEQ ID NO:9 is the mature form of SEQ ID NO:2, the Examiner will search both SEQ ID NO:2 and 9. This Restriction is deemed proper and is, therefore, made FINAL.

### ***3. Claim Objections***

- A. Claim 3 is objected to since it recites non-elected subject matter (SEQ ID NOs).

### ***3. Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 1647

A. Claim 3 is rejected under 35 U.S.C. 102(e) as being anticipated by Agarwal et al. (US20030149238). The claim recites an antibody which specifically binds to the polypeptide of SEQ ID NO:2 or 9. Agarwal teach a polypeptide 100% identical to SEQ ID NO:2 (see Sequence Comparison) as well as antibodies ([0064] and [0065]).

#### **4. Conclusion**


A. The claim is not allowable.

#### ***Advisory information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Landsman whose telephone number is (571) 272-0888. The examiner can normally be reached on M-Th 10 AM – 7 PM (eastern).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback can be reached on 571-272-0961. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Robert Landsman  
Primary Examiner  
Art Unit 1647

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US-10-203-708-27
; Sequence 27, Application US/10203708
; Publication No. US20030149238A1
; GENERAL INFORMATION:
; APPLICANT: SMITHKLINE BEECHAM CORPORATION
; APPLICANT: SMITHKLINE BEECHAM p.l.c.
; TITLE OF INVENTION: NOVEL COMPOUNDS
; FILE REFERENCE: GP50013
; CURRENT APPLICATION NUMBER: US/10/203,708
; CURRENT FILING DATE: 2002-08-13
; PRIOR APPLICATION NUMBER: PCT/US01/04703
; PRIOR FILING DATE: 2001-02-14
; PRIOR APPLICATION NUMBER: 60/182,172
; PRIOR FILING DATE: 2000-02-14
; PRIOR APPLICATION NUMBER: 60/186,084
; PRIOR FILING DATE: 2000-02-29
; NUMBER OF SEQ ID NOS: 46
; SOFTWARE: FastSEQ for Windows Version 3.0
; SEQ ID NO 27
; LENGTH: 130
; TYPE: PRT
; ORGANISM: Homo sapiens
US-10-203-708-27

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Query Match 100.0%; Score 722; DB 4; Length 130;  
Best Local Similarity 100.0%; Pred. No. 2.6e-70;  
Matches 130; Conservative 0; Mismatches 0; Indels 0; Gaps 0;

Qy	1	MKLAFLFLGPMALLLLAGYGCVLGASSGNLRTFVGCAVREFTFLAKKP GCRGLRITTDAC	60
Db	1	MKLAFLFLGPMALLLLAGYGCVLGASSGNLRTFVGCAVREFTFLAKKP GCRGLRITTDAC	60
Qy	61	WGR CETWEKPILEPPYIEAHHRVCTYN ET KQVTVKLPNCAPGVDPFYTY PVAIRCD CGAC	120
Db	61	WGR CETWEKPILEPPYIEAHHRVCTYN ET KQVTVKLPNCAPGVDPFYTY PVAIRCD CGAC	120
Qy	121	STATTECETI	130
Db	121	STATTECETI	130